

WOMBLE
CARLYLE
SANDRIDGE
& RICE
A PROFESSIONAL LIMITED
LIABILITY COMPANY



Seventh Floor
1401 Eye Street, N.W.
Washington, DC 20005

Telephone (202) 467-6900
Fax (202) 467-6910
Web site: www.wcsr.com

Howard J. Barr
Direct Dial: (202) 857-4506
Direct Fax: (202) 261-0006
E-mail: hbarr@wcsr.com

November 17, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene Dortch
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

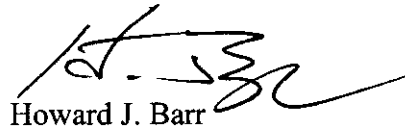
**Re: WT Docket No. 03-203
Reply to Opposition**

Dear Ms. Dortch:

Transmitted herewith is an original and four copies of Northwest Communications, Inc.'s Reply to Opposition in the above-referenced docket.

Should any questions arise in connection with this matter, kindly contact the undersigned.

Respectfully submitted,



Howard J. Barr

Enclosures

cc: Service List

No. of Copies of
List/ENCLOSURE 0+4

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

NOV 17 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In Re)
)
Applications to Assign Wireless)
Licenses from WorldCom, Inc.) WT Docket No. 03-203
(Debtor-in-Possession) to Nextel)
Spectrum Acquisition Corp.)

To: Chief, Wireless Telecommunications Bureau

REPLY TO OPPOSITION

Northwest Communications, Inc. ("NCI"), by counsel hereby submits its Reply to Nextel Communications, Inc.'s ("Nextel") and WorldCom, Inc.'s ("WorldCom") (collectively "Joint Parties") Joint Opposition to Petitions to Deny in the above-captioned matter. The following is shown in support thereof:¹

Joint Parties assertion that NCI's Petition to Deny should be dismissed for lack of service on Nextel should be rejected. The Commission does not typically sanction parties for failures to satisfy its procedural requirements where no prejudice befalls the other party by virtue of the

¹ The Commission's Public Notice, DA 03-2948, released September 25, 2003, did not establish a reply deadline or otherwise provide for the submission of replies in this proceeding. In establishing the relevant pleading cycle, the Commission, without explanation, relied upon Sections 1.415 and 1.419 of its rules. Section 1.415 addresses the establishment of pleading cycles in notice and comment rule making proceedings. *See, e.g.*, 1.415(a) ("After *notice of proposed rulemaking is issued*, the Commission will afford interested persons an opportunity to participate in the rulemaking proceeding through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner") (emphasis added). Section 1.419 addresses the form of comments and replies in such proceedings. This is not a notice and comment rule making proceeding, but a proceeding to consider whether the public interest will be served by a grant of the assignment applications filed in the above-captioned docket. Arguably therefore, the pleading cycle provided for in Sections 1.939 and 1.45 of the Commission's rules should control (Joint Parties appear to concede the relevance of 1.939 given their reliance upon that section for their contention that NCI's petition should be dismissed for failure of service on Nextel (*infra*). Both of those rules make provision for the filing of a reply to any opposition. Accordingly, NCI submits that this submission is permitted under the rules. To the extent necessary, NCI respectfully requests that it be accepted for consideration in this matter

procedural error.² Neither Nextel nor the Joint Parties suffered any prejudice as a result of the lack of service on Nextel. Indeed, Joint Parties do not even allege they were prejudiced by the procedural error much less demonstrate how they were prejudiced.³

Immediately upon being made aware of the service failure, counsel for NCI took steps to cure the defect. Counsel for WorldCom, who had been provided with an electronic version of NCI's filing, made that unnecessary as he provided a copy to Nextel subsequent to his receipt of the electronic version of the pleading he had requested from NCI's counsel.⁴ Joint Parties, including Nextel, had actual notice of the filing well in advance of the filing deadline and suffered no prejudice by virtue of the oversight. Accordingly, their request for dismissal should be denied.⁵

Likewise, Joint Parties' contention that NCI is without standing to object should be rejected.

NCI's Petition was properly filed in the context of this case. Allegations, such as those raised by NCI are properly considered in the context of an assignment application. "[L]icensees should 'be held accountable for their stewardship and will not be allowed to evade the consequences of their misconduct or abuse of a license by selling the station ...'" Roy M. Speer, FCC 96-100, released March 11, 1996 (staying the effectiveness of its action in FCC 96-89, re-leased March 11, 1996), quoting, 1400 Corp., 4 FCC 2d 715, 716 (1966) (sub-sequent history omitted). See also Jefferson Radio Company v. FCC, 340 F.2d 781 (D.C. Cir. 1984) (action to

² See *AT&T Corporation v Bell Atlantic*, 14 FCC Rcd 556, para. 105 (1998) ("since we find Bell Atlantic suffered no prejudice, we need not address its claim that the notice was defective").

³ See *D D Cable Holdings, Inc*, 11 FCC Rcd 10593, para. 20 (1996) (Commission accepts late filed opposition where other party did not even claim prejudice).

⁴ See Exhibit One Joint Parties noticeably fail to mention NCI's prompt effort to cure the defect.

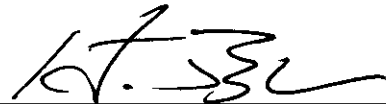
⁵ See *International Telecharge, Inc v Southwestern Bell Telephone*, 11 FCC Rcd 10061, para. 43 (1996)

be withheld on assignment and transfer applications where the Seller's qualifications to continue holding the license are in issue). This case similarly requires Commission resolution of the allegations before it may allow the proposed transaction to proceed.

Should the Commission find that NCI is without standing to petition for denial, it respectfully requests that its Petition be treated as an informal objection, for which there is no standing requirement. *Nextel License Holdings 4, Inc. NEXTEL WIP License Corp.*, 17 FCC Rcd 7028 (2002) (treating certain petitions to deny as informal objections where petitioners lacked standing). Moreover, the Public Notice of acceptance in this matter invited not only petitions to deny the applications, but comments as well. Accordingly, NCI's submission was properly filed in this matter and is entitled to consideration

Respectfully submitted,

NORTHWEST COMMUNICATIONS, INC.

By: 

Vincent A Pepper
Howard J. Barr

WOMBLE CARLYLE SANDRIDGE & RICE PLLC
1401 Eye Street, N.W., 7th Floor
Washington, D.C. 20005
(202) 857-4400

Attorneys for Northwest Communications, Inc.

November 17, 2003

Certificate of Service

I, Dina Etemadi, hereby certify that on this 17th day of November, 2003, I have caused copies of the foregoing Reply to Opposition to be sent by first class United States mail, postage prepaid, to the following:

Allison M. Jones
Counsel, Regulatory
Nextel, Inc.
2001 Edmund Halley Drive
Reston, VA 20191

Robert S. Koppel
Director, Spectrum Policy and Planning
WorldCom Broadband Solutions, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

Qualex International, Inc.*
445 12th Street, SW
Room CY-B402
Washington, D.C. 20554
qualex@aol.com

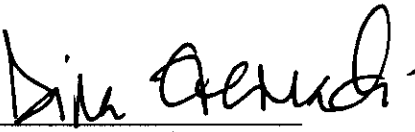
Jeffrey Tobias*
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau
445 12th Street, S.W.
Room 2-C828
Washington, DC 20554
Jeff.Tobias@fcc.gov

Erin McGrath*
Commercial Wireless Division
Wireless Telecommunications Bureau
445 12th Street, S.W.
Washington, DC 20554
Erin.McGrath@fcc.gov

Wayne McKee*
Engineering Division
Media Bureau
445 12th Street, S.W.
Room 4-C737
Washington, DC 20554
Wne.McKee@fcc.gov

Ann Bushmiller*
Transaction Team
Office of General Counsel
445 12th Street, S.W.
Room 8-A831
Washington, DC 20554
Ann.Bushmiller@fcc.gov

Alan Y. Naftalin
Holland & Knight LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006
Counsel for Red New York E Partnership
and Veritas LLC



Dina Etemadi